

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

CHRISTIANSEN SHIPYARDS, LTD.,

Plaintiff,

v.

ST. PAUL FIRE AND MARINE INSURANCE
CO., and NAVIGATORS INSURANCE CO.,

Defendants.

CASE NO. C06-0641C

ORDER

This matter comes before the Court on the motion by Defendant St. Paul Fire and Marine Insurance Company (“St. Paul”) to dismiss or stay the case. (Dkt. No. 9.) Having considered the memoranda, declarations, and exhibits filed by the parties, and deeming oral argument unnecessary, the Court hereby finds and rules as follows.

St. Paul moves to stay or dismiss this insurance-coverage dispute in deference to an earlier-filed action in the Southern District of Florida. (*See* St. Paul Fire and Marine Ins. Co. v. Christiansen Shipyards, Ltd., Case No. 06-21133 Civ-Altonaga.) In the Florida case, St. Paul seeks a declaration of its duties under an insurance policy issued to Christiansen Shipyards, Limited (“Christiansen”). St. Paul argues in that case, as it does in this one, that it owes no duty to indemnify Christiansen for amounts paid to settle an underlying suit. St. Paul filed its complaint in the Florida case on May 4, 2006 and served

1 Christiansen on May 10. Christiansen filed this suit on May 8 and served the complaint on the
2 Washington Insurance Commissioner on May 9.

3 The doctrine of federal comity “permits a district court to decline jurisdiction over an action when
4 a complaint involving the same parties and issues has already been filed in another district.” *Pacesetter*
5 *Sys., Inc. v. Medtronic, Inc.*, 678 F.2d 93, 94–95 (9th Cir. 1982). Courts will often defer to the first-filed
6 action, but this “is not a rigid or inflexible rule to be mechanically applied, but rather is to be applied with
7 a view to the dictates of sound judicial administration.” *Id.* at 95.

8 Having reviewed the record, the Court will exercise its discretion to retain jurisdiction of this
9 case. The Florida case does not include certain claims present in this case, in particular Plaintiff’s claims
10 for breach of contract, bad faith, and public disclosure of private facts. (Compl. ¶¶ 21–36); *cf.*
11 *Pacesetter*, 678 F.2d at 94 (affirming dismissal where two actions “involve identical parties and issues”).
12 Nor is Defendant Navigators Insurance Company a party in the Florida case. The Court also considers
13 that the cases were filed within days of each other and that neither case has progressed significantly
14 further than the other to date. Moreover, the Florida case recently has been referred for mediation.

15 At this time, therefore, the Court DENIES without prejudice St. Paul’s motion to stay or dismiss
16 this case. The parties should be prepared to discuss the status of the Florida case and any settlement
17 efforts at the status conference scheduled for August 15, 2006.

18 SO ORDERED this 8th day of August, 2006.

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22 UNITED STATES DISTRICT JUDGE
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